



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051

**DOCKET NO. 02-02-06 REQUEST OF HOUSING MINISTRIES OF NEW ENGLAND
INC. FOR REVIEW OF UI'S RATE NUS AT THE
WASHINGTON HEIGHTS APARTMENTS IN
BRIDGEPORT, CT**

April 16, 2003

By the following Commissioners:

Glenn Arthur
Jack R. Goldberg
John W. Betkoski, III

DECISION

I. SUMMARY

In this Decision the Department of Public Utility Control finds that the United Illuminating Company has improperly applied Rate NUS to the electric bill that is being rendered to the Housing Ministries of New England at the Washington Heights Apartments in Bridgeport, Connecticut.

II INTRODUCTION

A. PETITION

By letter dated February 1, 2002, the Housing Ministries of New England (Petitioner) requested the Department of Public Utility Control (Department) review the

misapplication by United Illuminating Company (UI or Company) of Rate NUS. The Petitioner states that it has been required to take service under Rate NUS as the result of the installation of a 75 kilowatt (kW) cogeneration unit. The Petitioner states that the rate is complex and discriminatory and should not be applicable to small cogeneration systems. The Petitioner goes on to state that the rate should only be applied to large power production facilities, those rated in megawatts (MW), not kW, because these facilities likely employ personnel with the necessary skills to interpret this rate. The Petitioner believes that the rate solely benefits UI and penalizes the customer who chooses to undertake conservation through the use of small cogeneration devices. Petition, pp. 1 and 2.

B. CONDUCT OF THE PROCEEDING

Pursuant to a Notice of Hearing dated June 11, 2002, pursuant to § 16-20 of the General Statutes of Connecticut, the Department held a public hearing on this matter on June 24, and July 16, 2002, in the offices of the Department, Ten Franklin Square, New Britain, Connecticut 06051.

The Department issued a draft Decision dated November 22, 2002. Pursuant to a notice of Written Exceptions, Briefs and Oral Arguments, dated November 27, 2002, oral arguments were scheduled at the offices of the Department on December 11, 2002. Pursuant to a Notice of Rescheduled Oral Arguments dated December 9, 2002, oral arguments were rescheduled to, and subsequently heard on, January 6, 2003.

The Department issued a second draft Decision dated March 6, 2003. Pursuant to a notice of Written Exceptions and Oral Arguments, dated March 6, 2003, the Parties were provided an opportunity to submit written exceptions to and present oral arguments on the second draft Decision.

C. PARTIES AND INTERVENORS

The Department designated The United Illuminating Company, 157 Church Street, New Haven, Connecticut 06506-0901; the Office of Consumer Counsel (OCC), Ten Franklin Square, New Britain, Connecticut 06051; and Housing Ministries of New England, 135 Washington Avenue, Suite B, Bridgeport, Connecticut, 06604 as Parties to this proceeding. Additionally, pursuant to Conn. Gen. Stat. § 16-19jj, a member of Department staff (Prosecutorial) was designated to attempt an alternative dispute resolution among the Parties. In addition, the Department designated The Southern Connecticut Gas Company, 855 Main Street, Bridgeport, Connecticut, 06604 as an Intervenor in this matter.

III. DEPARTMENT ANALYSIS

The Petitioner has expressed the following concerns.

1. UI did not allow the Petitioner to take back-up service under its otherwise applicable firm service rate, despite the fact that Rate NUS allows the customer to do so;
2. Rate NUS is difficult for UI and the customer to administer, and is therefore discriminatory;
3. Rate NUS should not be assessed to small generators because these units are small relative to UI's system loads. Tr. 6/24/02, p. 56.

Washington Heights Apartments is a 120 unit non-profit organization sponsored by the First Baptist Church in Bridgeport. The Petitioner manages the property for the Baptist Church. The property was constructed as an all-electrically heated building in 1973. The Petitioner states that after many unsuccessful attempts to reduce its electric costs, it pursued the installation of the 75 kW gas-fired cogeneration unit (Unit) that now provides a portion of the building's electric load. In September of 2000, the Petitioner engaged Aegis Energy Services to convert a portion of the building's electric heating system and domestic hot water system to a natural gas-fired hydronic heating system utilizing conventional boilers and the Unit. Petition, p. 1.

Aegis installs 50, 60 and 75kW cogeneration machines in larger residential and small commercial and industrial applications and has been doing so since 1983. Aegis has installed approximately 20 such units in UI's service territory. The Petitioner testified that the key aspect of these machines is their high thermal efficiency. Therefore, their operation as a source of electric generation is minor compared to the use of recovered heat. These machines are not intended to provide a significant portion of a customer's electric load on a permanent basis. The majority of the electric load that was displaced through the above-noted conversion resulted from the removal of electric resistance heating. Tr. 6/24/02, p. 18.

The tariff for Rate NUS states;

Service under this rate is for all purposes where partial or total electric service requirements are obtained from a self-generation facility (SG) on the customer's premises and interconnected with the Company's electric power system where the customer may require the Company's electric service to replace that source during periods of unscheduled outages (Backup Power), scheduled outages (Maintenance Power) or where the customer may require the Company's electric service to supplement (Supplemental Power) the SG source. Rate NUS tariff, p. 1 of 7.

Based on the foregoing, the Department finds that Rate NUS is applicable to the Petitioner. Therefore, the issue in this case then is whether UI properly administered the rate.

UI's Rate NUS is designed to ensure that customers who generate their own electricity are supplied with power when the customer's generating equipment is unavailable. This type of service, commonly referred to as 'backup,' is defined as both

the readiness to supply, and the supplying of, electric energy to serve a customer's load that is normally served by the customer's generation. Rate NUS is designed to recover the cost for providing these services. Tr. 6/24/02, p. 100, 103, 116-117; Tr. 7/16/02, p. 172.

A customer has three options for service under Rate NUS; backup, maintenance or supplemental service. As defined in the tariff, backup service means "electric demand and energy supplied by the Company during an unscheduled outage of the Customer's generation to replace demand and energy ordinarily generated by a Customer's own generation equipment." Maintenance service means "electric demand and energy supplied by the Company to replace demand and energy ordinarily generated by a Customer's own generation equipment during Company approved scheduled outages only." Supplemental service means "electric demand and energy supplied by the Company on a regular basis in addition to that which is normally provided by the Customer's own generation equipment." Rate NUS tariff, p. 2 of 7.

UI states that maintenance service is generally provided to large generating units, those that are rated in MWs, while smaller cogeneration units are generally served under the backup option of Rate NUS. Customers that take backup service also receive firm service under one of UI's firm requirement rates.

Rate NUS provides three options for billing. Under the third option, supplemental service, the customer can choose to be billed for all electric service under its otherwise applicable firm service rate for all their electric needs including backup service. In this case, the Petitioner can opt to take all service under its Firm Service tariff, Rate GST. However, UI did not provide the Petitioner the opportunity to take service under this option. Instead, it required the Petitioner to take the backup service option.

The Department finds that by requiring the Petitioner to be placed on the backup service option of Rate NUS that UI did not properly administer the tariff for this rate. Therefore, UI must offer the Petitioner the option of supplemental service under Rate NUS. Further, UI will be required to adjust all bills for service rendered since the installation of the Unit, based on the option that is selected by the Petitioner.

The findings in this case are consistent with previous Department rulings on this matter. See Decision dated January 24, 1990, in Docket Nos. 89-08-11 and 89-08-12, Application of The United Illuminating Company for an Increase in Rates and Application of The United Illuminating Company To Amend Its Rate Schedules, pp. 62 and 63, and Decision dated December 16, 1992, in Docket No. 92-06-05, Application of The United Illuminating Company for a Rate Increase, pp. 77-79. In those decisions, the Department found that customers with self-generation were not required to take backup service under Rate NUS, but were allowed to choose supplemental service under their otherwise appropriate rate for all their electric needs when their self-generation unit was not in operation. The Department concluded that to limit self-generation only to backup service under Rate NUS would be discriminatory. In 1990 the Department stated:

Cost considerations do not necessitate the need for this treatment (requiring self-generation customers to take backup service under Rate NUS) and, because it might be discriminatory. . . Decision, Docket Nos. 89-08-11 and 89-08-12, pp. 62 and 63.

In 1992 the Department stated:

A customer that elects not to take backup service can elect to take backup service under the appropriate supplemental service rate, that is, a firm service rate. Decision, Docket No. 92-06-05, p. 79.

The Petitioner states that it is aware of similar cogeneration units in UI's service territory that are not being billed under Rate NUS for backup service. The Petitioner believes this to be discriminatory. UI acknowledges that additional small generation units exist in its service territory and that some are not being billed under Rate NUS. UI believes Rate NUS became mandatory for all non-utility generators as a result of the Department's Decision dated October 1, 1998, in Docket No. 92-06-05, Application of The United Illuminating Company for a Rate Increase – Reopener. UI states that, based on its interpretation of the Decision, customers with non-utility generators in place prior to that date were grandfathered and not required to pay Rate NUS. UI made the decision to grandfather these installations as a matter of fairness, believing that it would be unreasonable to assess backup charges to customers who had made their installation investment when backup charges were not in place. Tr. 6/24/02, pp. 57-62.

Regarding the October 1, 1998 decision in Docket No. 92-06-05, the Decision states:

The changes proposed by UI essentially replace the words "qualifying facilities" with "self-generation" or "self-generating facilities" under UI's Terms and Conditions and in the Rate QF tariff. . . UI's proposed changes simply allow all self-generating facilities to qualify for UI's standby rate. The proposals do not affect current standby rates or the rates of any other customer. Decision, p. 4.

The Department approved UI's request to replace the term "non-utility generator" with the term "self-generation" in its tariffs to assure flexibility in applying rates to all customers with self-generation. Id. The Department did not intend to grandfather customers that qualify to take service under Rate QF (now Rate NUS) nor to modify the rate. Therefore, UI must apply Rate NUS to all customers as appropriate. However, as stated above, these customers have the option to continue to receive all their service under the supplemental service option of Rate NUS. Therefore, serving these customers under Rate NUS will have no impact on their bills.

In its Written Exceptions, UI states that the electric industry is vastly different than it was in the late 1980's and 1990's. UI states:

Restructuring, the development of the wholesale market, and the pricing of energy and other products in that market all support the concept that backup service is different from supplemental service. That is particularly the case where, here, a company has divested its generation and must purchase generation services to supply its customers. Backup service is required when a generator has an unplanned outage. UI Written Exceptions, dated March 14, 2003, p. 6.

Prior to restructuring, the cost to stand ready to provide service to a customer with supplemental generation included UI's distribution and generation-related assets. Under restructuring, UI has divested its generation assets, thereby eliminating a significant component of the cost to stand ready to serve. This fact serves to reinforce the Department's past decisions that there is no cost basis for treating Rate NUS customers differently than other customers, at this time.

The Department agrees that the electric industry has evolved and that Connecticut's supply/demand situation has also changed since the 1980's and 1990's. Given these changes, the Department believes that the Petitioner and UI have raised issues regarding backup rates that warrant further investigation. Changing the rate would likely have a broad impact on customers. UI can choose to alter its rates through an appropriate proceeding, however, the Company cannot revise its rates unilaterally because it believes that a situation has changed.

Investigating the need for change, or the applicability of the rate and its charges, are more appropriately handled in a generic proceeding. The Department will therefore reexamine back-up, maintenance and supplemental rates in Docket No. 02-08-20, DPUC Investigation Of The Federal Energy Regulatory Commission's Advance Notice of Proposed Rulemaking Entitled Standardization of Small Generator Interconnection Agreements and Procedures. Should it be determined that changes to the tariff are appropriate, those changes would be addressed in a ratecase.

IV. FINDINGS OF FACT

1. The Petitioner operates a 120 unit non-profit organization sponsored by the First Baptist Church in Bridgeport.
2. In September 2000, the Petitioner converted a portion of the building's electric heating system and domestic hot water system to a natural gas-fired hydronic heating system utilizing conventional boilers and a high efficiency 75 kW cogeneration unit.
3. The Petitioner receives service under UI's Rate GST for Firm Service and Rate NUS.

4. Standby or back-up service is the readiness to supply and the supplying of electric energy to serve a customer's load that is normally served by the customer's generation.
5. Rate NUS is intended to recover a portion of the cost of serving customers with cogeneration units to assure that other customers are not subsidizing the requirement that UI stand ready to serve when a unit is unavailable.
6. The nameplate rating of the Petitioner's Unit is 75 kW.
7. There are some cogeneration units in UI's service territory that are not being billed under Rate NUS.
8. UI did not allow the Petitioner to choose the supplemental service option under Rate NUS.

V. CONCLUSION AND ORDER

A. CONCLUSION

Rate NUS is designed to recover all of the cost that UI incurs to stand ready to serve customers that operate their own generation. Traditional ratemaking standards have been applied in designing this rate. Therefore, the Petitioner is subject to Rate NUS. However, UI required that the Petitioner take backup service under Rate NUS for all its electric needs. As a result, UI did not properly administer the rate to this customer. UI will be required to adjust all bills for service rendered since the installation of the Unit, based on the option that is selected by the Petitioner.

B. ORDER

1. On or before April 30, 2003, UI shall place the Petitioner on the supplemental service option under Rate NUS, review all billing records of the Petitioner and correct the Rate NUS charges to reflect the supplemental service option under Rate NUS back to the date of installation.

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This Decision is adopted by the following Commissioners:

Glenn Arthur

Jack R. Goldberg

John W. Betkoski, III

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.

Louise E. Rickard
Acting Executive Secretary
Department of Public Utility Control

April 16, 2003
Date